

PTO/SB/01 (6-95) (modified)
Approved for use through 10/31/96 OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

0010/PTO Rev. 6/95 DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION <input checked="" type="checkbox"/> Declaration Submitted with Initial Filing OR <input type="checkbox"/> Declaration Submitted after Initial Filing	U.S. Department of Commerce Patent and Trademark Office	Attorney Docket Number	5036
		First Named Inventor	Stewart Kevin Hester
		COMPLETE IF KNOWN	
		Application Number	Not Yet Known
		Filing Date	August 23, 2000
		Group Art Unit	Not Yet Known
		Examiner Name	Not Yet Known

RECEIVED

MAR 09 2001
Technology Center 2600

As a below named inventor, I hereby declare that:
My residence, post office address, and citizenship are as stated below next to my name.
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FAULT DETECTION AND ISOLATION IN AN OPTICAL NETWORK

the specification of which (Title of the Invention)
☒ is attached hereto
OR
☐ was filed on (MM/DD/YYYY) [] as United States Application Number or PCT International Application Number [] and was amended on (MM/DD/YYYY) [] (if applicable).
I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.
I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations. § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code § 119 (a)-(d) or § 385(b) of any foreign application(s) for patent or inventor's certificate, or § 365 (a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

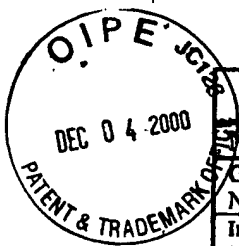
Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority sheet attached hereto:

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental sheet attached hereto.
60/152,138	08/24/1999	

DECLARATION				Page 2	
<p>I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.</p>					
U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)		
<input type="checkbox"/> Additional U.S. or PCT international application numbers are listed on a supplemental priority sheet attached hereto.					
<p>As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:</p>					
<p style="text-align: center;">Name</p> <p style="text-align: center;">Greg T. Sueoka</p>		<p style="text-align: center;">Registration Number</p> <p style="text-align: center;">33,800</p>	<p style="text-align: center;">Name</p> <p style="text-align: center;">Edward A. Van Gleson</p>		<p style="text-align: center;">Registration Number</p> <p style="text-align: center;">44,386</p>
<input type="checkbox"/> Additional attorney(s) and/or agent(s) named on a supplemental sheet attached hereto.					
<p>Please direct all correspondence to:</p> <p style="text-align: center;">Edward A. Van Gleson Fenwick & West LLP Two Palo Alto Square Palo Alto, CA 94306 U.S.A.</p>					
Telephone (650) 858-7997		Fax (650) 494-1417			
<p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>					
<p>Name of Sole or First Inventor: <input type="checkbox"/> A petition has been filed for this unsigned inventor</p>					
Given Name	Stewart	Middle Name	Kevin	Family Name	HESTER
Inventor's Signature				Date	8/23/2000
Residence: City	Belmont	State	CA	Country	USA
Mailing Address	3619 Hillcrest Drive				
Mailing Address					
City	Belmont	State	CA	Zip	94002
		Country	USA		
<input checked="" type="checkbox"/> Additional inventors are being named on supplemental sheet(s) attached hereto					

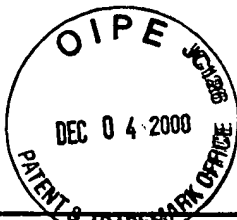


DECLARATION										ADDITIONAL INVENTOR(S) Supplemental Sheet			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name	Todd			Middle Initial	Family Name			Betne		Suffix e.g. Jr.			
Inventor's Signature	<i>Todd Betne</i>							Date	Aug 23, 2000				
Residence: City	Los Gatos			State	CA	Country	USA		Citizenship	USA			
Mailing Address	5126 Selinda Way												
Mailing Address													
City	Los Gatos			State	CA	Zip	95032		Country	USA			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name	Rainer			Middle Initial	Family Name			Traschko		Suffix e.g. Jr.			
Inventor's Signature	<i>Rainer Traschko</i>							Date	Aug 23, 2000				
Residence: City	Sunnyvale			State	CA	Country	USA		Citizenship	Canadian			
Mailing Address	705 San Conrado Terrace, Apt. 3												
Mailing Address													
City	Sunnyvale			State	CA	Zip	94086		Country	USA			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name	Kent Wilfred			Middle Initial	Family Name			Rylhorchuk		Suffix e.g. Jr.			
Inventor's Signature	<i>Kent Wilfred Rylhorchuk</i>							Date	Aug 23, 2000				
Residence: City	Sunnyvale			State	CA	Country	USA		Citizenship	Canadian			
Mailing Address	120 E. Remington Drive, #415												
Mailing Address													
City	Sunnyvale			State	CA	Zip	94087		Country	USA			
Name of Additional Joint Inventor, if any:										<input type="checkbox"/> A petition has been filed for this unsigned inventor			
Given Name				Middle Initial	Family Name					Suffix e.g. Jr.			
Inventor's Signature								Date					
Residence: City				State		Country			Citizenship				
Mailing Address													
Mailing Address													
City				State		Zip			Country				
<input type="checkbox"/> Additional inventors are being named on supplemental sheet(s) attached hereto													

RECEIVED

MAR 09 2001

Technology Center 2600



PTO/SB/ 10 (6-95) (modified)

Approved for use through 07/31/96. OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(c))--SMALL BUSINESS CONCERN

Docket Number (Optional):

5036

Applicant or Patentee: Stewart Kevin Hester, Todd Beine, Rainer Robert Iraschko, Kent Wilfred George Ryhorchuk

Application or Patent No.: _____

Filing Date or Issue Date: _____

Title: **FAULT DETECTION AND ISOLATION IN AN OPTICAL NETWORK**

I hereby declare that I am

☐ the owner of the small business concern identified below:☒ an official of the small business concern empowered to act on behalf of the concern identified below:NAME OF SMALL BUSINESS CONCERN ONI Systems Corp.ADDRESS OF SMALL BUSINESS CONCERN 166 Baypointe ParkwaySan Jose, CA 95134-1621

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention described in:

☒ the specification filed herewith with title as listed above.☐ the application identified above.☐ the patent identified above.

If the rights held by the above identified small business concern are not exclusive, each individual or organization having rights in the invention must file separate verified statements averring to their status as small entities, and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

Each such person, concern or organization having any rights in the invention is listed below:

☒ No such person, concern, or organization exists.☐ Each such person, concern or organization is listed below:

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Mike DillonTITLE OF PERSON IF OTHER THAN OWNER VP of General CounselADDRESS OF PERSON SIGNING 166 Baypointe Parkway, San Jose, CA 95134-1621

SIGNATURE _____

DATE August 22, 2000

RECEIVED

MAR 09 2001

Technology Center 2600



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

OCTOBER 19, 2000

FENWICK & WEST LLP
EDWARD A. VAN GIESON
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

PTAS
RECEIVED

OCT 30 2000



101451997A

FENWICK & WEST LLP

RECEIVED

**UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT**

MAR 09 2001

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 08/23/2000

REEL/FRAME: 011038/0052
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

HESTER, STEWART KEVIN

DOC DATE: 08/22/2000

ASSIGNOR:

BEINE, TODD

DOC DATE: 08/23/2000

ASSIGNOR:

IRASCHKO, RAINER ROBERT

DOC DATE: 08/23/2000

ASSIGNOR:

RYHORCHUK, KENT WILFRED GEORGE

DOC DATE: 08/23/2000

ASSIGNEE:

ONI SYSTEMS CORP.
166 BAYPOINTE PARKWAY
A DELAWARE CORPORATION
SAN JOSE, CALIFORNIA 95134-1621

SERIAL NUMBER: 09648672

FILING DATE: 08/23/2000

PATENT NUMBER:

ISSUE DATE:

011038/0052 PAGE 2

MARY BENTON, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS



09-07-2000



101451997

U.S. Department of Commerce
Patent and Trademark Office
PATENT

RECEIVED

MAR 09 2001

Technology Center 2600

**RECORDATION FORM COVER SHEET
PATENTS ONLY**

MKD 8.23.00

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

☒ **New**
Resubmission (Non-Recordation)
☐ **Document ID#**
Correction of PTO Error
☐ **Reel #** **Frame #**
Corrective Document
☐ **Reel #** **Frame #**

Conveyance Type

☒ **Assignment** ☐ **Security Agreement**
☐ **License** ☐ **Change of Name**
☐ **Merger** ☐ **Other**
U.S. Government
(For Use ONLY by U.S. Government Agencies)
☐ **Departmental File** ☐ **Secret File**

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Name **HESTER, Stewart Kevin**

Execution Date
Month Day Year

08 22 2000

Second Party

Name **BEINE, Todd**

Execution Date
Month Day Year

08 23 2000

Third Party

Name **IRASCHKO, Rainer Robert**

Execution Date
Month Day Year

08 23 2000

Fourth Party

Name **RYHORCHUK, Kent Wilfred George**

Execution Date
Month Day Year

08 23 2000

Receiving Party

☐ Mark if additional names of receiving parties attached

Name (line 1) **ONI SYSTEMS CORP.**

Name (line 2) **A Delaware Corporation**

Address (line 1) **166 Baypointe Parkway**

Address (line 2)

Address (line 3) **San Jose**

California

95134-1621

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner For Patents, Box Assignments, Washington, D.C. 20231

RECEIVED

U.S. Department of Commerce
Patent and Trademark Office
PATENT

MAR 09 2001

Correspondent Name and Address

Area Code Telephone Number (260) 858-7997

Name Edward A. Van Gieson

Address (line 1) Fenwick & West LLP

Address (line 2) 2 Palo Alto Square

Address (line 3) Palo Alto, CA 94306

Address (line 4)

1586 U.S. PTO
09/648672

08/23/00

Pages

Enter the total number of pages of the conveyance document including attachments # 2

Application Number(s) or Patent Number(s)

☐ Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

Patent Number(s)

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year
08 23 2000

Patent Cooperation Treaty (PCT)

Enter PCT application number only if a U.S. Application Number has not been assigned

PCT		PCT		PCT	
PCT		PCT		PCT	

Number of Properties

Enter the total number of properties involved. # 1

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment

Enclosed



Deposit Account



Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

19-2555

Authorization to charge additional fees:

Yes ☒

No ☐

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Edward A. Van Gieson

Name of Person Signing

Edward Van Gieson

Signature

8/23/00

Date

ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledged, the person(s) named below (referred to as "INVENTOR" whether singular or plural) has sold, assigned, and transferred and does hereby sell, assign, and transfer to ONI Systems Corp., a Delaware corporation, having a place of business at 166 Baypointe Parkway, San Jose, CA 95134-1621 ("ASSIGNEE"), for itself and its successors, transferees, and assignees, the following:

1. The entire worldwide right, title, and interest in all inventions and improvements ("SUBJECT MATTER") that are disclosed in the application for United States Letters Patent entitled: **FAULT DETECTION AND ISOLATION IN AN OPTICAL NETWORK ("APPLICATION")**, which:

☒ is to be filed herewith

☐ was filed on _____, (YYYY), now bearing U.S. serial number _____

and for which a Declaration was executed by INVENTOR on the date(s) below; and

2. The entire worldwide right, title, and interest in and to:

(a) the APPLICATION, including any right of priority; (b) any divisional, continuation, substitute, renewal, reissue, and other related applications thereto which have been or may be filed in the United States or elsewhere in the world; and (c) any patents which may be granted on the applications set forth in (a) and (b) above.

INVENTOR agrees that ASSIGNEE may apply for and receive patents for SUBJECT MATTER in ASSIGNEE's own name.

INVENTOR agrees to do the following, when requested, and without further consideration, in order to carry out the intent of this Assignment: (1) execute all oaths, assignments, powers of attorney, applications, and other papers necessary or desirable to fully secure to ASSIGNEE the rights, titles and interests herein conveyed; (2) communicate to ASSIGNEE all known facts relating to the SUBJECT MATTER; and (3) generally do all lawful acts that ASSIGNEE shall consider desirable for securing, maintaining, and enforcing worldwide patent protection relating to the SUBJECT MATTER and for vesting in ASSIGNEE the rights, titles, and interests herein conveyed. INVENTOR further agrees to provide any successor, assign, or legal representative of ASSIGNEE with the benefits and assistance provided to ASSIGNEE hereunder.

INVENTOR represents that INVENTOR has the rights, titles, and interests to convey as set forth herein, and covenants with ASSIGNEE that the INVENTOR has made or will make hereafter no assignment, grant, mortgage, license, or other agreement affecting the rights, titles, and interests herein conveyed.

INVENTOR grants the attorney of record the power to insert on this Assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent and Trademark Office for recordation of this document.

This Assignment may be executed in one or more counterparts, each of which shall be deemed an original and all of which may be taken together as one and the same Assignment.

Name and Signature _____

Date of
Signature _____

Date Declaration
Executed By This Person _____

STEWART KEVIN HESTER

Aug 22, 2000

Aug 22, 2000

State of _____

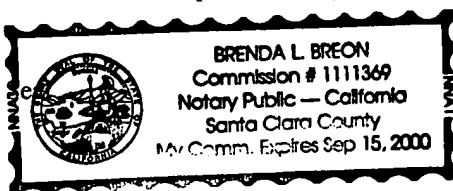
County of _____

California
Santa Clara

On August 22, 2000 before me Brenda L Breon personally
[DATE] [NOTARY PUBLIC]

appeared STEWART KEVIN HESTER personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Notary



Brenda L Breon
Notary

Title of Document: ASSIGNMENT

Re:

Title:

FAULT DETECTION AND ISOLATION IN AN OPTICAL NETWORK

Name and Signature

Todd Beine

TODD BEINE

Date of
SignatureAug 23, 2000Date Declaration
Executed By This PersonAug 23, 2000

State of

County of

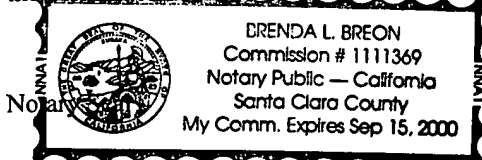
California
Santa ClaraOn August 23, 2000
[DATE]

before me,

Brenda L. Breon
[NOTARY PUBLIC]

personally

appeared TODD BEINE personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



Brenda L. Breon
Notary

Name and Signature

Rainer Robert Iraschko

RAINER ROBERT IRASCHKO

Date of
SignatureAug 23, 2000Date Declaration
Executed By This PersonAug 23, 2000

State of

County of

California
Santa ClaraOn August 23, 2000
[DATE]

before me,

Brenda L. Breon
[NOTARY PUBLIC]

personally

appeared RAINER ROBERT IRASCHKO personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



Brenda L. Breon
Notary

Name and Signature

Kent Wilfred George Ryhorchuk

KENT WILFRED GEORGE RYHORCHUK

Date of
SignatureAug 23, 2000Date Declaration
Executed By This PersonAug 23, 2000

State of

County of

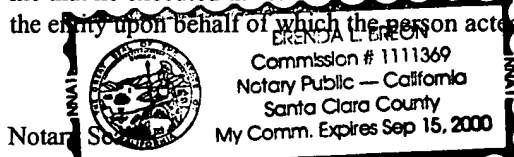
California
Santa ClaraOn Aug. 23, 2000
[DATE]

before me,

Brenda L. Breon
[NOTARY PUBLIC]

personally

appeared KENT WILFRED GEORGE RYHORCHUK, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



Brenda L. Breon
Notary